

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

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In Re:) Case No. 19-30088
) Chapter 11
PG&E CORPORATION AND PACIFIC)
GAS AND ELECTRIC COMPANY) San Francisco, California
) Wednesday, June 26, 2024
Debtor.) 10:00 AM
)
MOTION TO STAY PROCEEDINGS RE
DISPUTED CLAIMS UNDER THE
FIRE VICTIM TRUST AGREEMENT &
REVIEW OF FVT INTERPRETATION
OF PLAN LANGUAGE FILED BY
FIRE VICTIMS [14491]

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DENNIS MONTALI
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES (All present by video or telephone):

<p>For Cathy Yanni, fire victim trustee:</p>	<p>DAVID J. MOLTON, ESQ. Brown Rudnick LLP Seven Times Square New York, NY 10036 (212)209-4800</p>
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PG&E Corporation and Pacific Gas Electric Company

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1 SAN FRANCISCO, CALIFORNIA, WEDNESDAY, JUNE 26, 2024, 10:00 AM

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3 (Call to order of the Court.)

4 THE CLERK: Court is now in session, the Honorable
5 Dennis Montali presiding. Calling the matter of PG&E
6 Corporation.

7 THE COURT: All right. Good morning. I see several
8 counsel for the fire victim trust. Can I just get the
9 appearance from whomever is going to make the argument?

10 MR. MOLTON: Good morning, Your Honor. David Molton.
11 I hope you can hear me, Your Honor.

12 THE COURT: I can.

13 MR. MOLTON: Good.

14 THE COURT: And who's appearing for the moving party?

15 MS. LEDING: Good morning, Your Honor. This is
16 Kimberly Leding, with Poniatowski Leding Parikh, specially
17 appearing on behalf of the moving parties.

18 THE COURT: Well, what does "specially appearing"
19 mean?

20 MS. LEDING: We are assisting counsel for the movants
21 with the underlying motion. I understand that Brad Bowen, who
22 is the counsel for the moving parties, is also on the line.
23 But I think he may be having difficulty with his phone line.

24 MR. BOWEN: That's correct, Your Honor. This is Brad
25 Bowen, counsel for --

1 THE COURT: Well, which one of you is going to make
2 the argument. That's all. Ms. Leding, are you?

3 MS. LEDING: Yes, Your Honor. And Mr. Bowen is
4 available for any additional information.

5 THE COURT: I don't have any questions. The reason --
6 I'll just make this very clear. I'm not even sure -- and I was
7 inclined not even to put this on calendar. The motion that I
8 was presented with a few days ago was extremely misleading
9 and -- confusing, rather, more than misleading. Confusing,
10 because it sought a motion for an expedited hearing with no
11 real explanation as to why.

12 And to the extent -- I mean, I understand the
13 underlying issue, but there was no explanation that was fairly
14 persuasive as to why I'm hearing this on an expedited basis.
15 And there was no -- to the extent that the moving party --
16 parties, the four claimants, to the extent that they wanted
17 some sort of a stay, the motion in the papers doesn't even come
18 within ten miles of it being adequate to justify a stay.

19 I mean, a stay is an injunction, and injunctions
20 require likelihood of prevailing, and analysis, and irreparable
21 harm, and so on. And so I set this hearing, notwithstanding
22 that confusion, to find out from the trust -- and now I have
23 Mr. Molton to say what do you want me to do about this. And I
24 assume you're going to oppose it, but you tell me.

25 MR. MOLTON: Your Honor, David Molton, for the fire

1 victim trust, on behalf of Cathy Yanni, the fire victim
2 trustee.

3 Yes, Your Honor, we're going to be opposing the
4 motion. We too were mightily confused by the motion, taken by
5 its absence of any criteria established by competent evidence
6 showing, among other things, likelihood of success on the
7 merits, irreparable harm, balancing of interests, et cetera.

8 I do want to note, Your Honor, that what I was able to
9 glean from their papers -- and I'm looking at section --
10 document 14489, which is the motion for -- ex parte motion for
11 shortened notice, I believe, at -- I think it's page 3 of 4.

12 They're asking that this Court interject itself, stay
13 the claims administration process that's ongoing, that has been
14 ongoing with respect to 250,000 claims, well over 40,000
15 claimants, stay it for these particular four claimants so that
16 this Court can review the -- and I'm quoting "the standards and
17 eligibility criteria that are being applied to the
18 determination of the claims to ensure compliance with the terms
19 of state law", et cetera, et cetera, et cetera, and the plan
20 documents.

21 Judge, we believe there's no basis for that, for Your
22 Honor to interject yourself into a claims administration
23 process. Your Honor has ruled on those claimants who had the
24 opportunity to partake of court intervention. And I would
25 note, under Article 9, Your Honor, of the claims resolution

1 facility, that only occurs after all claims administrative
2 processes are exhausted, which --

3 THE COURT: Wait. Hold on. Let me interrupt you.
4 You're kind of getting to the merits, and -- you're getting to
5 the merits --

6 MR. MOLTON: Yeah, I'm not going to get to the merits.
7 Okay, Judge. We don't believe --

8 THE COURT: So let me ask, do I assume that, at least
9 as of today, June 26th, the hearing officer has not issued a
10 ruling?

11 MR. MOLTON: Well, Judge --

12 THE COURT: Or has that person --

13 MR. MOLTON: Yes. Let me go through that, because I
14 think it's important as to where we are. There is a three-part
15 step process of review under --

16 THE COURT: Right. I'm aware of that.

17 MR. MOLTON: -- the claims administration --

18 THE COURT: I'm aware of that.

19 MR. MOLTON: -- that you approved. The first claims
20 administration process has been completed -- that's with the
21 claims administration processors -- and the four claimants'
22 claims were denied. They then sought reconsideration under
23 Section VII-A of the CRP. And as Your Honor knows, they have
24 an opportunity, on reconsideration, to submit anything they
25 want. Any new submitted evidence will be considered. That,

1 Your Honor, was denied, and their claims were denied.

2 They're in the midst of an appeals process under
3 Section B of Article VII of the CRP. That, as Your Honor
4 knows, is a de novo process. Under Section B(2), the claimants
5 can submit there any additional information or documents not
6 included in the record from the earlier determinations, as well
7 as a twenty-page brief.

8 All of that happened, Your Honor, and the hearing on
9 the appeal, before the neutral claim appeal officer, closed on
10 the 14th of June. That appeals officer has thirty days, under
11 the CRP, to render its report to the trustee. And the neutral
12 then submits the report to the trustee, who will then consider
13 the neutral's determination. And pursuant to Section C, Your
14 Honor, of the CRP, the trustee may accept, reject, or revise
15 the appeal determination to ensure that all claims are treated
16 equitably, and then will issue a trustee determination that, as
17 Your Honor knows --

18 THE COURT: So that trustee determination -- I take it
19 that trustee determination is the third step, and the second
20 step hasn't even been completed yet.

21 MR. MOLTON: Yeah. Actually, the trustee
22 determination is just the final fourth step. I mean, the first
23 step is claims administration --

24 THE COURT: No, I understand that.

25 MR. MOLTON: Judge, we're --

1 THE COURT: But the point is, as we are speaking now,
2 the hearing officer has not done what he or she has a thirty-
3 day time limit to act on.

4 MR. MOLTON: Exactly, Your Honor.

5 THE COURT: Right? Okay.

6 MR. MOLTON: And I do --

7 THE COURT: Okay.

8 MR. MOLTON: Thank you.

9 THE COURT: All right. So --

10 MR. MOLTON: I --

11 THE COURT: Well, go ahead, just go ahead, but stay
12 clear of the merits.

13 MR. MOLTON: I'm staying totally clear of the merits.
14 But in terms of process and procedure, Your Honor may note
15 that, in their document 14490, at 6-4 to 6-5, that corroborates
16 the information concerning the causation issues that they're
17 raising were in front of the claims administrator as well as
18 the appeal officer.

19 And if you look at 14489, at page 4 -- and I'm going
20 to quote them -- the claimants say that they "are satisfied
21 with the conduct of the appeals hearing as it relates to
22 causation under the law". They say that in their ex-parte
23 application. And we're waiting now for the process to complete
24 itself, Judge.

25 THE COURT: My observation is, to Mr. Bowen and Ms. --

1 I'm sorry.

2 MS. LEDING: Leding.

3 THE COURT: I lost your name. I know, but you went
4 off the screen. Did I lose your name on the screen? I mean, I
5 wrote your name, Ms. Leding. There you go. I mean, I see the
6 names of the speakers.

7 Again, leaving aside the merits that you feel strongly
8 about, and I'm not here to second guess that at the moment, I
9 don't know where there'd be any reason why you even have to act
10 now. You may win. You may win the next round. Even if those
11 two rounds go unsatisfactory, and Ms. Yanni herself makes a
12 final determination, I still don't know, if you have access to
13 the Court -- and I'm leaving open that issue -- I still don't
14 understand why we had to rush this.

15 So let's take this in reverse, what was the need to
16 have this hearing today when you filed a motion and you set it
17 on our calendar? And I'm not questioning your right to do
18 that, but why the rush?

19 MS. LEDING: Your Honor, our concern was that, if in
20 the intervening time, between now and the July 30th hearing,
21 the neutral issues a decision or a recommendation to the
22 trustee, and the trustee then issues a final determination, the
23 movants will no longer have access or any recourse --

24 THE COURT: Well, why do you have more recourse today
25 than you would have on that day? I mean, the trust isn't going

1 to distribute all of its money -- if there's a right, which is
2 debatable, but if you have a right to have the bankruptcy court
3 interfere, you have that right. But that's my point.

4 Again, I don't mind doing what I'm supposed to do, but
5 I don't like having to line up a whole bunch of people, on an
6 expedited basis, for no apparent reason. I still don't see a
7 reason. So give me a short answer as to how's the sky going to
8 fall if I don't do anything today, or tomorrow, or until July
9 30th?

10 MS. LEDING: Well, it's our understanding under the
11 rules that, in the event the trustee issues its final
12 determination that it's jurisdictional, that there would there
13 would be no further recourse for the movant, in terms of
14 seeking any sort of judicial review, or any further challenge
15 to the application of this perimeter rule, which is what the
16 crux of the argument is in the underlying motion. So if
17 something is issued by the trustee, if that final determination
18 is issued between now and the hearing, then the underlying
19 motion is essentially moot. And then --

20 THE COURT: But do you have any law to support that?
21 I mean, again, I'm mystified because, if I don't have
22 jurisdiction after the trustee acts, I'm not sure where I've
23 gotten this jurisdiction before she acts.

24 So look, I'm not going to worry about this any
25 further. I'm going to deny today's motion -- or let me

1 rephrase that. I'm going to deny the request for any expedited
2 consideration of it. You have not made a case to show the kind
3 of thing -- even leaving aside the procedural inadequacies, and
4 recognizing that this is a bit of an unusual procedure. And so
5 overlooking the normal elements of a restraining order, which I
6 stated and Mr. Molton stated, still, I'm not going to do
7 anything.

8 And if the hearing officer rules adverse to your
9 position, Ms. Leding, and the trustee moves adverse to your
10 position, and if you believe there is jurisdiction in the
11 bankruptcy court to do anything, I don't imagine that Mr.
12 Molton is going to win his case by my saying it's too late, you
13 waited too long, and the decision of Ms. Yanni is final, and
14 the Court can't do anything about it.

15 I may say the decision is final. And even if it
16 weren't final, I can't do anything about it. But that's
17 different. So you're not going to get -- I'm not going to be
18 persuaded that what I might have been able to do today or
19 tomorrow, I couldn't do if Ms. Yanni makes a ruling before the
20 hearing on the motion.

21 So I'm not going to act on it today. This matter, I
22 understand, is important to your clients, but it's important to
23 me that the trustee have an opportunity to brief it in some
24 manner, the normal, traditional matter.

25 Mr. Molton, I would request that you not reinvent the

1 wheel. You don't have to file a thirty-five page brief, the
2 first thirty pages of which are something that you and I have
3 been dealing with for the last several years. You can make the
4 record and preserve all that, but I think you need to focus on
5 the question of whether there's any jurisdiction at all to do
6 anything.

7 And then secondly, whether if there is any, even if
8 there is any, whether it could be dealing with the rather
9 narrow and unusual, I guess, issue as to the perimeters. And I
10 see, as to three of the four claimants, a substantial perimeter
11 differential. At least one of the claimants is relatively much
12 different, but it still would strike me as the same issue.

13 So I don't see any need to have any further discussion
14 on the merits or even the procedural setting. The matter is on
15 our July 30th calendar.

16 Ms. Parada, that's still on our regular calendar, or
17 is it on our -- is it on our PG&E calendar? I don't even
18 remember.

19 THE CLERK: Your Honor, it is on a PG&E all-purpose
20 calendar date.

21 THE COURT: Okay. And our rules -- Mr. Molton, I'm
22 sure you're aware of it, and I assume Ms. Leding knows about
23 it. Our rules say when your response will be due, and any
24 reply due, and I'll take it up on the 30th, if it hasn't been
25 resolved in some fashion before then.

1 So any questions from anyone?

2 MR. MOLTON: No, Judge. Thank you. We'll be
3 succinct.

4 THE COURT: Okay. Ms. Leding, any question?

5 MS. LEDING: No questions, Your Honor. Thank you.

6 THE COURT: Okay. For all of your benefit, I'm not
7 going to issue any kind of a formal order. I'll have a minute
8 order on the docket that will reflect that the motion to stay
9 is denied for reasons stated on the record. And then nothing
10 is definitive, obviously, beyond that. So I will look forward
11 to dealing with it on the regular schedule that we just
12 discussed. Thank you very much. That will conclude the
13 hearing.

14 MS. LEDING: Thank you, Judge.

15 MR. MOLTON: Thank you.

16 (Whereupon these proceedings were concluded at 10:16 AM)

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I N D E X

RULINGS:

PAGE LINE

Motion for expedited consideration of
motion to stay proceedings is
denied.

11 1

C E R T I F I C A T I O N

I, Sharona Shapiro, certify that the foregoing transcript is a true and accurate record of the proceedings.



/s/ SHARONA SHAPIRO, CET-492

eScribers

7227 N. 16th Street, Suite #207

Phoenix, AZ 85020

Date: June 27, 2024

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